United Nations CRC/C/OPAC/PRT/CO/1

Convention on the Rights of the Child

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Committee on the Rights of the Child

Concluding observations on the report submitted by Portugal under article 8, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict*

1. The Committee considered the initial report of Portugal (CRC/C/OPAC/PRT/1) at its 1862nd meeting (see CRC/C/SR.1862), held on 23 January 2014, and adopted at the 1875th meeting, held on 31 January 2014, the following concluding observations.

I. Introduction

2. The Committee welcomes the submission of the State party's initial report and its written replies to the list of issues (CRC/C/OPAC/PRT/Q/1/Add.1) and expresses its appreciation of the constructive dialogue with the multisectoral delegation.

3. The Committee reminds the State party that the present concluding observations should be read in conjunction with its concluding observations on the State party's third and fourth periodic reports under the Convention on the Rights of the Child (CRC/C/PRT/CO/3-4) and initial report under the Optional Protocol on the sale of children, child prostitution and child pornography (CRC/C/OPSC/PRT/CO/1), both adopted on 31 January 2014.

II. General observations

Positive aspects

4. The Committee notes with appreciation the State party's ratification of:

(a) Optional Protocol to the Convention on the Rights of the Child on a communications procedure on 24 September 2013;

(b) Rome Statute of the International Criminal Court on 5 February 2002.

* Adopted by the Committee at its sixty-fifth session (13–31 January 2014).

5. The Committee welcomes the various positive measures taken in areas relevant to the implementation of the Optional Protocol, in particular:

(a) Declaration, made at the time of the ratification, that the minimum age for voluntary recruitment in the State party is 18 years;

(b) Article 16 of the Constitution of Portugal, which allows the Optional Protocol to be directly invoked before the courts and applied by national authorities in the State party;

(c) The promulgation of Act No. 31/2004, of 22 July 2004 which adapted Portuguese penal legislation to the Rome Statute of the International Criminal Court;

(d) The adoption of National Action Plan on Security Council resolution 1325 (2000), 2009–2014, in August 2009.

III. General measures of implementation

Coordination

6. While the Committee notes the existence of the Portuguese National Human Rights Committee, an interministerial body to coordinate all governmental actions on human rights, it is concerned about the lack of a specialized coordination mechanism among the relevant agencies to ensure the implementation of the Optional Protocol.

7. **The Committee recommends that the State party take all the necessary measures to ensure an effective coordination of the implementation of the Optional Protocol at the national, provincial and district levels, and provide sufficient human, technical and financial resources to the coordination mechanism. It recommends that the State party include information thereon in its next periodic report.**

Dissemination and awareness-raising

8. The Committee is concerned that the State party has not widely disseminated the principles and provisions of the Optional Protocol among the members of the Armed Forces and the general public, including children and their families.

9. **Pursuant to article 6, paragraph 2, of the Optional Protocol, the Committee recommends that the State party enhance its efforts to make the principles and provisions of the Optional Protocol widely known to the members of the Armed Forces, the public at large and children in particular, including through greater involvement of the media in awareness-raising programmes.**

Training

10. While noting that the training of all military officials, including those deployed to peacekeeping missions, includes a module on human rights and international humanitarian law, the Committee regrets the lack of specific training on children's rights and the provisions of the Optional Protocol in the curricula provided for military and law enforcement personnel, including those involved in international peacekeeping operations.

11. **The Committee recommends that the Optional Protocol be systematically included in the training of all relevant professional groups, in particular the Armed Forces and members of international peacekeeping forces, law enforcement and immigration officers, prosecutors, lawyers, judges, social workers, medical professionals, teachers, media professionals and local and district officials.**

Data

12. The Committee regrets the lack of data on the acts covered by the Optional Protocol, relating in particular to asylum-seeking, refugee, migrant and unaccompanied children under the State party's jurisdiction, who may have been recruited or used in hostilities abroad.

13. **The Committee recommends that the State party establish a mechanism for the comprehensive collection of data, disaggregated by sex, age, nationality, ethnic origin and socioeconomic background, on all areas relevant to the implementation of the Optional Protocol with a view, in particular, to identifying and registering all asylum-seeking, refugee, migrant and unaccompanied children under the State party's jurisdiction who may have been recruited or used in hostilities abroad.**

IV. Prevention

Direct participation

14. While the Committee notes as positive the fact that the State party's Code of Military Justice prohibits the recruitment or enlistment of children under 18 years of age and considers such offences as war crimes, it is concerned that the legislation does not define "active use" in hostilities.

15. **In order to further strengthen crime prevention under the Optional Protocol, the Committee recommends that the State party define the concept of "active use" in hostilities in relevant domestic legislation, including the Code of Military Justice.**

Military schools

16. The Committee notes that the Ministry of Education establishes the basic school curricula and courses of the Military School (Colégio Militar) and the Army Pupils (Pupilos do Exército) and Odivelas Institute (Instituto de Odivelas) military schools. However, it is concerned that the schools, which receive students below 18 years of age, remain under the control of the Ministry of Defence and under the responsibility of the Army. Furthermore, although children enrolled in those establishments are not trained in the use of weapons, the Committee is concerned that military training is mandatory in the Colégio Militar and that military discipline is included in the curricula for children as young as 10 years old.

17. **The Committee recommends that State party:**

(a) Ensure that all the military schools, currently under the responsibility of the Ministry of Defence, are placed under the supervision of the Ministry of Education;

(b) Ensure that children who study in the Colégio Militar continue to be enrolled as civilians and that they are exempted from mandatory military training until they turn 18.

Human rights and peace education

18. The Committee notes that the State party has translated the Optional Protocol into Portuguese and that it has incorporated peace education in school curricula as part of the subject "Education for citizenship".

19. **With reference to its general comment No. 1 (2001) on the aims of education, the Committee recommends that the State party continue to strengthen peace education in school curricula at all levels, with special reference to crimes covered by the Optional Protocol.**

V. Prohibition and related matters

Criminal legislation and regulations in force

20. The Committee notes as positive the fact that Act No. 31/2004 of 22 July, adapting Portuguese criminal legislation to the Rome Statute of the International Criminal Court, criminalizes the recruitment and use of children below the age of 18 in the Armed Forces, military or paramilitary forces of a State, or in armed groups or their use in hostilities committed during an international or non-international armed conflict. However, the Committee is concerned that:

(a) The criminalization of such recruitment and use of children below the age of 18 is limited to the context of an armed conflict and does not apply in peacetime;

(b) The State party's legislation does not define as a crime and prohibit the recruitment and use of children below the age of 18 by legal persons, such as security companies.

21. **The Committee recommends that the State party:**

(a) Review the provisions of domestic legislation to ensure that the recruitment of children by the Armed Forces and armed groups is criminalized both during peacetime and wartime;

(b) Amend Act No. 31/2004 in order to explicitly criminalize the recruitment and use of children under 18 years by private military and security companies, as well as attempts to commit such acts, and repeated commission of and complicity in such acts.

VI. Protection, recovery and reintegration

Measures adopted to protect the rights of child victims

22. The Committee notes the information provided by the State party that there are no child victims of the offences prohibited by the Optional Protocol on its territory. However, according to the information received by the Committee, an increasing number of unaccompanied asylum-seeking and refugee children from conflict-affected countries are entering the State party and the Committee is concerned about the lack of mechanisms for early identification of children who might have been recruited or used in armed conflict abroad.

23. **The Committee urges the State party, in accordance with its obligations under article 7 of the Optional Protocol, to take all the necessary measures to identify children who may have been involved in armed conflict and to establish a mechanism for identifying asylum-seeking, refugee or migrant children who may have been involved in armed conflict abroad, and ensure that the personnel responsible for identification are trained in children's rights, child protection and child-sensitive interviewing skills.**

Assistance for physical and psychological recovery and social reintegration

24. The Committee notes as positive the fact that refugee and asylum-seeking children have the right to access the education system and health care, and that the Centre for Refugee Temporary Installation has a special centre for unaccompanied children in the Lisbon area. It also notes with appreciation that Act No. 27/2008 of 30 June 2008 stipulates that children affected by armed conflict, including child victims of torture and cruel, inhuman or degrading treatment, are entitled to have access to rehabilitation services.

However, the Committee is concerned that the physical and psychological recovery measures available in the State party for children who may have been recruited or used in hostilities abroad are not adequate.

25. **The Committee urges the State party to take all the necessary measures to ensure that all refugee and asylum-seeking children who may have been recruited or used in hostilities have the right to have access to adequate physical and psychological recovery and social reintegration measures. Such measures should include careful assessment of the situation of the children, the provision of immediate, child-sensitive and multidisciplinary assistance for their physical, psychological and emotional recovery and their social reintegration, in accordance with the Optional Protocol. The Committee also recommends that the State party expand the provision of special centres for unaccompanied, refugee and asylum-seeking children to other districts of the State party.**

VII. International assistance and cooperation

International cooperation

26. **The Committee notes with appreciation the State party's positive role in the Human Rights Council and its collaboration with the United Nations in its effort to prevent and prosecute the recruitment and use of children in armed conflict. The Committee recommends that the State party continue its cooperation with the United Nations and with the Special Representative of the Secretary-General for Children and Armed Conflict and that it explore the possibility of increasing its cooperation with the United Nations Children's Fund (UNICEF) and other United Nations entities in the implementation of the Optional Protocol.**

VIII. Follow-up and dissemination

27. **The Committee recommends that the State party take all appropriate measures to ensure the full implementation of the present recommendations by, inter alia, transmitting them to the Parliament, relevant ministries, including the Ministry of Defence, the Supreme Court and local authorities, for appropriate consideration and further action.**

28. **The Committee recommends that the initial report and written replies submitted by the State party and the related concluding observations adopted by the Committee be made widely available, including (but not exclusively) through the Internet, to the public at large, civil society organizations, youth groups, professional groups and children, in order to generate debate on and awareness of the Optional Protocol, and its implementation and monitoring.**

IX. Next report

29. **In accordance with article 8, paragraph 2, of the Optional Protocol, the Committee requests the State party to include further information on the implementation of the Optional Protocol and the present concluding observations in the next periodic report it submits, in accordance with article 44 of the Convention on the Rights of the Child.**